

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**ADAM FRIED, ADMINISTRATOR OF:
THE ESTATE OF
DESMOND FRANKLIN,**

Plaintiff,

v.

JOSE GARCIA,

Defendant.

CASE NO.

JUDGE

**NOTICE OF REMOVAL TO THE UNITED STATES DISCTRIC COURT FOR THE
NORTHERN DISTRICT OF OHIO, EASTERN DIVISION**

Defendant Jose Garcia (“Officer Garcia”) respectfully submits his Notice of Removal to the United States District Court of Ohio, Eastern Division. The grounds for this Notice of Removal are the following:

1. On December 6, 2021, Plaintiff Adam Fried, identified as the Administrator of the Estate of Desmond Franklin (“Plaintiff”) filed a civil action in the Court of Common Pleas, Cuyahoga County, Ohio, Case No. CV-21-956729, captioned *Adam Fried, Administrator of the Estate of Desmond Franklin v. Jose Garcia*. A copy of Plaintiff’s Complaint is attached as Exhibit A. A copy of the case docket for the Cuyahoga County Court of Common Pleas is attached as

Exhibit B. Plaintiff demands judgment against Officer Garcia for an award of compensatory and punitive damages to be determined at a trial of this matter. (*Exhibit A, Complaint*, p. 8). Plaintiff claims the “action is brought pursuant to Ohio and Federal law...pursuant to the Civil Rights Act, 42 U.S.C. § 1983 *et seq.*; the Judicial Code §§ 1331 and 1343(a); and the Constitution of the United States.” (*Exhibit A, Complaint*, p. 2).

2. This Court has original jurisdiction under 28 U.S.C. § 1343 and 28 U.S.C. § 1331. This matter may be removed to this Court pursuant to 28 U.S.C. § 1441 as a civil action involving a claim or right over which this Court has original jurisdiction and involving a claim or right arising under the Constitution or laws of the United States within the meaning of Section 1331. The federal claims are fully contained in the Complaint. Officer Garcia is the only Defendant.

3. The Complaint also pleads state law claims against Officer Garcia over which this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 (*Exhibit A*, p. 1-6).

4. In addition to the Complaint (*Exhibit A*), the court docket (*Exhibit B*) identifies the pleadings to date as including the Instructions for Service, Summons, and proof of delivery. A copy of the same are attached as Exhibit C.

5. Officer Garcia was served with the Complaint on December 20, 2021. Removal is being timely accomplished within 30 days as required by 28 U.S.C. § 1446(b).

6. Plaintiff and the Cuyahoga Common Pleas Court will be notified of this filing. A copy of this Notice of Removal will be filed with the Clerk of Courts, Cuyahoga County, Ohio, as required by 28 U.S.C. § 1446(d).

THEREFORE, Officer Garcia respectfully removes this case, presently pending in the Court of Common Pleas, Cuyahoga County, Ohio, to this Court for further proceedings.

Respectfully submitted,

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Director of Law

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed electronically on the 12th day of January, 2022. A copy was sent via ordinary mail and electronically on this date to the undersigned counsel of record:

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